

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 416 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VALJIBHAI LAXMANBHAI DODIYA

Versus

HARISHANKAR SHIVRAM

Appearance:

MR SANDEEP N BHATT for Petitioner

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 01/05/2000

ORAL JUDGEMENT

Rule.

The petitioner has filed the present Civil Revision Application under section 115 of the Code of Civil Procedure, 1908 challenging the order dated 28.12.1999 recorded by the learned Joint District Judge, Rajkot in Civil Misc.Application No.61/93 under which the learned Judge dismissed the said application filed by the petitioner along with other applicants under section 5 of the Limitation Act. It appears that the petitioner submitted the aforesaid application stating that a scheme

was formulated in respect of Ishwaria village situated at Madhapur in Taluka of Rajkot. That the petitioner was not aware of the said scheme. The petitioner was late in filing the application hence he filed application for condonation of delay under Section 5 of the Limitation Act. The learned Judge, after hearing the parties, dismissed the application and held that there was no sufficient ground for condoning the delay and hence this Revision is filed in this court.

2. I have heard the learned Advocate for the party and have perused the papers. At one point of time, the petitioner had stated at para 4 of the main application before the District Court that he came to know about the aforesaid scheme for the first time on 1st day of April, 1992. The aforesaid application was submitted on 8.4.1993. Therefore there was delay of more than one year after coming to know about the said scheme. Even if it is presumed that the petitioner has committed some error in mentioning the said date, then also the petitioner's contention before the District Court was that the notice of the scheme was published in local newspaper 'Nutan Saurashtra' which does not have sufficient circulation. The District Court has observed at page 6 of its judgment that the news of publication of the scheme was published at least in 4 newspapers in May 1992. Names of publication of news have also been indicated by the District Court. It is observed that other newspapers having sufficient circulation also published the news about the implementation of the said scheme. Therefore, it cannot be said that the petitioner was not aware of the formulation of the scheme. Moreover, there is nothing to show on record, prima facie, that 'Nutan Saurashtra' do not have sufficient circulation at Rajkot. It may be that the petitioner may not be reading 'Nutan Saurashtra'.

3. It is true that the sufficient cause referred to in Section 5 of the Limitation Act is required to be construed liberally. Even if the word 'sufficient cause' is so construed, in the present case, it cannot be said that the petitioner has shown sufficient cause for condoning the delay of one year.

4. In the aforesaid view of the matter, it cannot be said that the delay has been explained sufficiently and to the satisfaction of the trial court. Moreover, when the said scheme has been formulated, it would be open to the person concerned to apply for amendment of the scheme if and when particular part of the scheme is found to be unjust, improper or unreasonable and, therefore, that

remedy has not been negatived by the court below. Since there was no such application before the court below on that line, naturally, the petitioner may be at liberty to act accordingly for the modification of the scheme, if he so desires. The petitioner has not been able to satisfy the trial court as well as this court that there was sufficient cause for not making the application in time.

5. There is no merit in this Revision Application and the same is accordingly dismissed. Rule discharged. No order as to costs.

1.5.2000 [D P Buch, J.]
msp.